

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AUGUSTINE ROSARIO,)
)
Plaintiff,) Civil Action No. 06-782
)
v.)
)
) Judge McVerry
) Magistrate Judge Caiazza
)
LOUIS S. FOLINO, et al.,)
)
Defendants.)

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

It is respectfully recommended that the Plaintiff's Motion for Preliminary Injunction (Doc. 4) be denied.

The Plaintiff, prisoner Augustine Rosario, complains that inmates of Hispanic descent are not permitted to have jobs in the plumbing shop, electrician shop, paint shop and the laundry. He claims he has applied for these jobs, but has not been selected. He seeks an immediate transfer to another facility, and asks for an investigation within SCI-Greene with respect to purported discrimination against Hispanics.

The Plaintiff's request for preliminary injunctive relief is directed not merely at preserving the status quo; instead, it seeks continuing, mandatory relief. In this context, his burden is particularly heavy. See Acierno v. New Castle County, 40 F.3d 645, 653 (3d Cir. 1994). The Plaintiff must make a "clear showing of irreparable injury." Hohe v. Casey, 868 F.2d 69, 72 (3d Cir.), cert. denied, 493 U.S. 848 (1989). The word

irreparable connotes "that which cannot be repaired, retrieved, put down again, [or] atoned for." Acierno, 40 F.3d at 653. An injunction is not issued "simply to eliminate a possibility of a remote future injury." *Id.* at 655 (citations omitted).

Rosario's allegations fail to show any immediate, irreparable injury that will result from the denial of his Motion. His requested injunctive relief seeks to require the DOC to transfer him to another facility and to engage in an affirmative investigation. The failure to require the DOC to immediately grant his relief will not result in any irreparable injury to the Plaintiff that cannot be compensated by money damages; the relief sought by Rosario should be ordered only after a full review of the relevant facts and law.

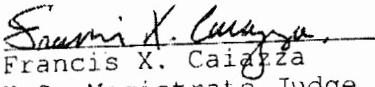
The Plaintiff has not demonstrated irreparable harm, and his Motion therefore should be denied.

In accordance with the Magistrate's Act, 28 U.S.C. § 636 (b) (1) (B) and (C), and Rule 72.1.4 (B) of the Local Rules for Magistrates, objections to this Report and Recommendation are due by August 24, 2006. Responses to objections are due by September 5, 2006.

August 8, 2006

cc:

Augustine Rosario, CB-6942
SCI-Greene
175 Progress Drive
Waynesburg, PA 15370


Francis X. Caiazza
U.S. Magistrate Judge